

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

EDWARD JOSEPH MCNATT	:
Petitioner	:
	:
V.	: C.A.No. 04-225 Erie
	: District Judge McLaughlin
	: Magistrate Judge Baxter
PA BD OF PROBATION AND PAROLE,	:
Respondent.	:

PETITIONER'S OBJECTION TO COURT'S RECOMMENDATION TO DISMISS
PETITIONER'S HABEAS CORPUS PETITION FOR FAILURE TO PROSECUTE

NOW COMES, Edward Joseph McNatt, petitioner, pro se, and files this Objection to the Court's Recommendation to Dismiss Petitioner's Habeas Corpus Petition for Failing to Prosecute, and in support thereof, submits the following:

1. Petitioner was given an Order by this Court on July 26, 2005 to provide this Court with Proof of Payment for service fees owed to the United States Marshal's Service.

2. Petitioner submits that on July 23, 2005 two (2) money orders were sent to the United States Marshal's Service for the costs of the fees of two (2) separate cases.

3. Petitioner being sent the receipts of the money orders on August 17, 2005 has not yet received those receipts.

4. The first money order is numbered 54217368580 and was purchased at the Traveler's Express in Clearfield County, with the case number CA-05-0128 Erie listed on it.

5. The second money order was numbered 54217368590 and has case number CA-05-0124 Erie listed on it.

6. Both money orders were for \$24.00 each and both were purchased from the same place.

7. Petitioner believes that the Marshal's made a mistake when they sent petitioner case number CA-04-128 Erie to be placed on the money order, when petitioner sees that his case against the PA BD OF PROBATION & PAROLE has the case number 04-225 Erie. See attached.

8. Petitioner not receiving a recommendation for dismissal against his case with Judge Lobaugh, et al, for failing to prosecute, leads petitioner to believe the U.S. Marshal's Service made a mistake.

9. Petitioner will receive the receipt for the money orders no later than Monday, August 22, 2005 and will immediately submit those receipts to this Court to show that he has, in fact, submitted his payments in full.

10. Petition, being an inmate could not obtain the receipts in the time allowed by this Court because he had to write a letter in order to have these receipt sent to him.

WHEREFORE, petitioner prays this Honorable Court will not dismiss petitioner's case for failure to prosecute and grant petitioner until Monday, August 22, 2005, to send out to this Court, the receipts he will receive from the money orders sent to satisfy the fees associated with the above entitled case. Petitioner also prays this Honorable Court will see that the United States Marshal's made a mistake in the case number and that it was that case number which was written on the money order as directed by the United States Marshal's Service.

Dated this 17th day of August, 2005.

Edward J. McNatt
Edward J. McNatt
Petitioner, pro se



U.S. Department of Justice

United States Marshals Service

Western District of Pennsylvania

241 U.S. Post Office and Courthouse
7th Avenue and Grant Street
Pittsburgh, PA 15219

June 22, 2005

Edward Joseph McNatt, #DL-6772
SCI Houtzdale
P.O. Box 1000
Houtzdale, Pa. 16698

RE: Remittance of U.S. Marshals Service Fees

Dear Mr./Ms. McNatt,

Please be advised that although you have been given leave under 28 U.S.C. Section 1915 to proceed in forma pauperis in case CA-05-0124 Erie, it only authorizes an indigent plaintiff to proceed "without prepayment of fees or costs." This allows indigent plaintiffs to initiate litigation without having to advance the fees associated with litigation, i.e. service of process. The statute does not waive the eventual payment, however, of the statutory service of process fees incurred by the U.S. Marshals Service.

Remit \$24.00 for service of process fees within ten days of receipt of this letter. Make check or money order payable to United States Marshal and send to the following address:

U.S. Marshals Service
241 U.S. Post Office/Courthouse
7th Avenue & Grant Street
Pittsburgh, Pa. 15219

Please make sure your case number is included on the check/money order.

If payment is not received, the U.S. Marshals Service may deem it necessary to initiate separate litigation to collect the fees. You may contact this office at 412/644-4096 if you have any questions.

Sincerely,

THOMAS M. FITZGERALD
UNITED STATES MARSHAL
WESTERN DISTRICT OF PENNSYLVANIA

A handwritten signature in cursive script, reading "Sheila Blessing", is written over the typed name.

BY: Sheila Blessing
Administrative Assistant
United States Marshals Service
Western District of Pennsylvania



U.S. Department of Justice

United States Marshals Service

Western District of Pennsylvania

241 U.S. Post Office and Courthouse
7th Avenue and Grant Street
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Edward Joseph McNatt, #DL-6772
SCI Houtzdale
P.O. Box 1000
Houtzdale, Pa. 16698

RE: Remittance of U.S. Marshals Service Fees

Dear Mr./Ms. McNatt,

Please be advised that although you have been given leave under 28 U.S.C. Section 1915 to proceed in forma pauperis in case CA-05-0128 Erie it only authorizes an indigent plaintiff to proceed "without prepayment of fees or costs." This allows indigent plaintiffs to initiate litigation without having to advance the fees associated with litigation, i.e. service of process. The statute does not waive the eventual payment, however, of the statutory service of process fees incurred by the U.S. Marshals Service.

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Sincerely,

THOMAS M. FITZGERALD
UNITED STATES MARSHAL
WESTERN DISTRICT OF PENNSYLVANIA

A handwritten signature in cursive script that reads "Sheila Blessing".

BY: Sheila Blessing
Administrative Assistant
United States Marshals Service
Western District of Pennsylvania

P R O O F O F S E R V I C E


I, Edward Joseph McNatt, petitioner, pro se, certify that I am on this 17th day of August, 2005 sending the foregoing objection to the recommendation of the court to dismiss petitioner's habeas corpus for failing to prosecute, on the following person(s) and in the following manner.

SERVICE BY FIRST-CLASS MAIL ADDRESSED AS FOLLOWS:

United States District Court
United States Magistrate Judge Susan Paradise Baxter
17 South Park Row, Room A 280
Erie, PA 16501

United States Marshal's Service
Western District of Pennsylvania
241 U.S. Post Office and Courthouse
7th Avenue and Grant Street
Pittsburgh, PA 15219

Dated this 17th day of August, 2005.


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Houtzdale, PA 16698